



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,721	08/13/2003	Shan-Wen Chang	112.P77290	1720
43831 7590 11/09/2007 BERKELEY LAW & TECHNOLOGY GROUP, LLP 17933 NW Evergreen Parkway, Suite 250 BEAVERTON, OR 97006			EXAMINER MISLEH, JUSTIN P	
			ART UNIT 2622	PAPER NUMBER
			MAIL DATE 11/09/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/604,721

Applicant(s)

CHANG ET AL.

Examiner

Justin P. Misleh

Art Unit

2622

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 September 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 11 - 15.
Claim(s) objected to: 18.
Claim(s) rejected: 1 - 10, 16, 17, and 19 - 23.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Attached Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


LIN YE
SUPERVISORY PATENT EXAMINER

Response to Arguments

1. Applicant's arguments filed September 28, 2007 have been fully considered but they are not persuasive.

Official Notice

2. Applicant argues, "the Examiner has taken Official Notice of the concepts and advantages of providing a lens set in an optical viewfinder that is capable of moving relative to the housing and being aligned with the optical viewfinder. Assignee respectfully traverses the Examiner's findings and respectfully requests that the Examiner provide documentary evidence to support his conclusions."

3. Applicant additionally argues, "The Examiner has also taken Official Notice of the concepts and advantages of further including an optical viewfinder with a lens set having a piano-concave lens and convexo-concave lens. Assignee traverses the Examiner's findings and respectfully requests that the Examiner provide documentary evidence to support his conclusions."

4. In response to Applicant's request for documentary evidence, the points towards US 7,012,647 (Shintani) and US 6,809,772 (Motta). Both Shintani and Motta each disclose a compact digital camera with an optical viewfinder (see Shintani figure 13 and Motta figures 2 and 3). Shintani provides a feature that adjusts the optics within the optical viewfinder to correspond to the focus and zoom of the photographing optical system (see column 5, line 51 – column 6, line 34). Motta provides a feature that the optics within the optical viewfinder shares the optical path with the photographing optical system (see column 3, line 16 – column 4, line 53). Both Shintani and Motta disclose a lens set in an optical viewfinder that is capable of

Art Unit: 2622

moving relative to the housing and being aligned with the optical viewfinder and an optical viewfinder with a lens set having a piano-concave lens and convexo-concave lens.”

Prior Art

5. Applicant additionally argues, “Assignee respectfully contends that it would not have been obvious to combine Bunte and Correa because, for example, there would be no motivation to combine the documents, nor would there be a likelihood of success for such a combination because such a combination would alter and/or destroy the functionality of Bunte’s device. Specifically, Bunte has a light 614 as an illumination source that illuminates a target. In the office action, the Examiner proposes substituting the light of Bunte for the laser disclosed by Correa and putting a mask over the laser to create a laser viewfinder (see page 5 of the office action). This modification would render the device of Bunte inoperative because the light would no longer illuminate the entire target, which is the purpose of the light. See, for example, column 11, lines 4 t-44, where Bunte describes illumination of the target area “as is required for image capture purposes.” See also column 14, lines 32-45, where Bunte discloses various illumination modes.”

6. The Examiner respectfully disagrees Applicant’s position. First, Bunte neither shows the target being illuminated nor describes in sufficient specificity how the target is to be illuminated. Second, images can be captured in complete darkness; hence, illuminating “as is required for image capture purposes” is relative. Thus, contrary to Applicant’s assertion, it is impossible to conclude that Bunte’s entire target must be illuminated. Finally, Applicant merely assumes that if the laser and mask of Correa were applied to Bunte, then there would not be enough illumination “as is required for image capture purposes.” Applicant has not provided any

Art Unit: 2622

evidence as to why this would be the case. Therefore, the combination of Bunte and Correa is valid and will be maintained.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 571.272.7313. The Examiner can normally be reached on Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lin Ye can be reached on 571.272.7372. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JPM

November 5, 2007



LIN YE
SUPERVISORY PATENT EXAMINER